



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Via First Class Mail and Facsimile (212) 805-9396

Laurence Levy, Esq.
Greenberg Traurig LLP
200 Park Avenue
New York, NY 10166

JUN 15 2018

Re: MUR 6947
Dr. Benjamin J. Carson, Jr.
Carson America, Inc. and Logan D. Delany
in his official capacity as treasurer
Doug Watts

Dear Mr. Levy:

On July 8, 2015, the Federal Election Commission ("Commission") notified your clients, Dr. Benjamin J. Carson, Jr., Carson America, Inc. and Logan D. Delany in his official capacity as treasurer, and Doug Watts that it received a complaint alleging violations of the Federal Election Campaign Act of 1971, as amended ("the Act"). On June 7, 2018, the Commission found no reason to believe that your clients violated 52 U.S.C. § 30125(e) by soliciting excessive or prohibited contributions.

Documents related to the case will be placed on the public record within 30 days. See Disclosure of Certain Documents in Enforcement and Other Matters, 81 Fed. Reg. 50,702 (Aug. 2, 2016). The Factual and Legal Analysis, which explains the Commission's finding, is enclosed for your information.

If you have any questions, please contact Camilla Jackson Jones, the attorney assigned to this matter at (202) 694-1650.

Sincerely,

Kathleen M. Guith by *sg* with
permission
Kathleen M. Guith
Associate General Counsel

Enclosure
Factual and Legal Analysis

FEDERAL ELECTION COMMISSION

FACTUAL & LEGAL ANALYSIS

RESPONDENTS:

Dr. Benjamin S. Carson, Sr.
Carson America, Inc. and Logan D. Delaney
in his official capacity as treasurer
Doug Watts
One Vote and Chris Marston in his official
capacity as treasurer

MUR 6947

I. INTRODUCTION

The Complaint in this matter alleges that 2016 Presidential candidate Dr. Benjamin S. Carson, Sr.; his authorized campaign committee, Carson America, Inc. and Logan D. Delaney in his official capacity as treasurer ("Carson America"); and Carson's Director of Communications, Doug Watts (collectively "Carson Respondents"), violated the Federal Election Campaign Act of 1971, as amended (the "Act"), by soliciting or directing funds beyond the limits and source prohibitions of the Act.¹ Specifically, the Complaint, relying on purported statements by Watts in a *Washington Post* article, alleges that Carson's campaign sought to circumvent the Act's contribution limits and prohibitions by directing Carson's contributors to "make their excess contributions" to the super PAC One Vote because it was the "unofficially sanctioned" super PAC of the Carson campaign.² In a joint response, which includes a signed declaration by Watts, the Carson Respondents deny the allegations and assert that the purported statements by Watts on which the Complaint relies are inaccurate.³

The Commission finds no reason to believe that Dr. Benjamin S. Carson, Sr., Carson America, Inc. and Logan D. Delaney in his official capacity as treasurer, and Doug Watts

¹ See 52 U.S.C. § 30125(e)(1)(A).

² Compl. at 2.

³ See generally Resp.; Resp. at 5-6. One Vote did not submit a response to the Complaint.

violated 52 U.S.C. § 30125(e) by soliciting excessive or prohibited contributions to One Vote on behalf of Carson. Accordingly, the Commission also find no reason to believe that One Vote and Chris Marston in his official capacity as treasurer violated the Act in connection with the allegations in the Complaint.

II. FACTUAL AND LEGAL ANALYSIS

A. Facts

Dr. Benjamin S. Carson, Sr. was a candidate for the Republican Party's presidential nomination in the 2016 election. Carson announced his candidacy on May 4, 2015, and on the same day, his authorized committee, Carson America, Inc., filed its Statement of Organization.⁴ Doug Watts served as Communications Director for the Carson campaign until December 31, 2015.

One Vote is an independent-expenditure-only committee that supported Carson's candidacy; it filed its Statement of Organization with the Commission on March 17, 2015.⁵

On June 5, 2015, the *Washington Post* published an article discussing "turmoil" within Carson's campaign, including that "[t]wo independent super PACs designed to help Carson are instead competing directly with Carson's campaign for donations and volunteers."⁶ The two "super PACs" referred to in the article are Run Ben Run and One Vote.⁷ The article included purported statements by Watts (who was identified as a "Carson campaign spokesman") that the

⁴ Carson America, Inc., FEC Form 1 Statement of Organization (May 4, 2015).

⁵ One Vote, FEC Form 1 Statement of Organization (Mar. 17, 2015). As an independent-expenditure-only committee (also referred to as a "super PAC"), One Vote may accept corporate contributions and contributions in unlimited amounts.

⁶ Resp., Exh. A, Robert Costa & Philip Rucker, *Ben Carson's campaign faces turmoil amid staff exits and super PAC rivalry*, WASH. POST, June 5, 2015.

⁷ *Id.*

campaign's "'unofficially sanctioned' super PAC is One Vote and that Carson invites supporters to 'make their excess contributions' to that group."⁸

B. Analysis

The Act prohibits federal candidates, federal officeholders, their agents and entities directly and indirectly established, financed, maintained, or controlled by the candidate from soliciting, receiving, directing, transferring, or spending funds in connection with any federal election activity unless the funds are subject to the limitations, prohibitions and reporting requirements of the Act.⁹ The Complaint alleges, based on the statements reportedly made by Watts to the *Washington Post*, that "Dr. Carson, or Mr. Watts acting as his agent, has engaged in explicit solicitation of funds in excess of the limits and/or source restrictions of the Act for the Carson-affiliated super PAC, One Vote."¹⁰

Respondents deny the allegations and provide a signed declaration under penalty of perjury from Watts to specifically rebut the Complaint's factual assertions.¹¹ In his declaration, Watts concedes that one or two days prior to the article being published, he was interviewed by two *Washington Post* reporters and discussed various aspects of Carson America and the legal parameters of how an independent-expenditure only committee operates independently of a candidate's campaign.¹² Watts asserts, however, that the scope of the interview primarily focused on "generic questions regarding the operations of independent expenditure only

8 *Id.*

9 52 U.S.C. § 30125(e)(1)(A); 11 C.F.R. § 300.61.

10 Compl. at 2-3.

11 Resp. at 5-6; Exh. B, Doug Watts Decl. (Aug. 21, 2015). The Response alternatively contends that, even if the facts alleged in the Complaint were true, the Complaint does not provide a sufficient factual or legal basis upon which to conclude that Carson, Watts, or Carson America violated 52 U.S.C. § 30125(e)(1)(A) by soliciting contributions on behalf of One Vote from prohibited sources and in amounts that exceed the Act's contribution limits. Resp. at 4-5, 6-7.

12 Watts Decl. ¶¶ 3, 9.

committees (IEOC).”¹³ He explicitly denies making the reported statements at issue regarding One Vote’s relationship with the Carson campaign.¹⁴

Specifically, Watts declares that, “At no time during the interview or subsequent to the interview, did I state to either [reporter] that O[ne] V[ote] was the ‘unofficially sanctioned’ ‘super PAC’ of the Committee. During our discussions the references to O[ne] V[ote] and R[un] B[en] R[un] were inserted as examples of how an IEOC operates. I did not state that there was a ‘sanctioned’ or ‘approved’ IEOC related to the Committee.”¹⁵ Watts further declares that, “at no time during the interview or subsequent to the interview did I state that ... ‘Carson invites supporters to make their excess contributions’ to R[un] B[en] R[un], O[ne] V[ote] or any other IEOC. My only comments related to that issue were that an IEOC often times solicits those persons who have already made the maximum contributions to a candidate to provide them an additional opportunity to make a contributions that will support the candidate of their choice. Once again, my comments were of a generic nature in order to educate [the reporters] as to the perceived benefits of an IEOC.”¹⁶

The Complaint’s allegation that the Carson campaign impermissibly solicited excessive and prohibited funds rests exclusively on Watts’ purported statements in the *Washington Post* that the campaign’s “‘unofficially sanctioned’ super PAC is One Vote and that Carson invites supporters to ‘make their excess contributions’ to that group.”¹⁷ Watts, however, specifically

13 *Id.* at ¶ 4.

14 *Id.* at ¶ 11, 12.

15 *Id.* at ¶ 11.

16 *Id.* at ¶ 12.

denies making each of those statements as written, and provides a detailed description of his conversation with the newspaper reporters and a credible explanation of how he was either misunderstood or misquoted.¹⁸ Watts explains that it was the reporters who raised the example of One Vote during a general conversation about super PACs and declares that "since they raised the issue of O[ne] V[ote] as an example, I referenced O[ne] V[ote] in my response to explain the fact that a benefit of an IEOP is that contributors who have made the maximum contribution to a candidate's campaign, often turn to an IEOP as a means to make contributions to an entity that publicly supports a specific candidate."¹⁹

Because of the limited nature of the information on which the allegations are based, and Respondents' direct, specific, and credible refutation of that information, the available information does not provide adequate support for reason to believe finding that Dr. Carson or Carson America made solicitations on behalf of, directed any funds to, or received funds from One Vote.²⁰ Accordingly, the Commission finds no reason to believe that Dr. Benjamin S. Carson, Sr., Carson America, Inc. and Logan D. Delaney in his official capacity as treasurer,

17 Resp., Exh. A.

18 Unlike some of the other statements attributed to Watts in the article, the statements relied on by the Complaint are not fully quoted – the only portions contained in quotes are the phrases "unofficially sanctioned" and "make their excess contributions." Thus, the author's statement clearly contained at least some interpretation/paraphrasing.

19 Watts Decl. ¶ 10.

20 See Statement of Policy Regarding Commission Action in Matters at the Initial Stage in the Enforcement Process, 72 Fed. Reg. 12,545, 12,546 (Mar. 16, 2007) (no reason to believe finding appropriate when the available information fails to give rise to a reasonable inference that a violation has occurred); Statement of Reasons, Comm'rs. Mason, Sandstrom, Thomas & Smith at 1-2, MUR 4960 (Hillary Clinton for U.S. Senate Exploratory Committee) ("SOR") (in explaining its no reason to believe finding, the Commission stated, "while credibility will not be weighed in favor of the complainant or the respondent, a complaint may be dismissed if it consists of factual allegations that are refuted with sufficiently compelling evidence provided in the response to the complaint").

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and Doug Watts violated 52 U.S.C. § 30125(e) by soliciting excessive or prohibited contributions.

to One Vote on behalf of Carson. The Commission also finds no reason to believe that One

Vote and Chris Marston in his official capacity as treasurer violated the Act in connection with

the allegations in this matter.

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